

BEFORE THE PERSONNEL APPEALS BOARD

STATE OF WASHINGTON

SUANNE PETTIT,

Appellant,

v.

BELLEVUE COMMUNITY COLLEGE,

Respondent.

) Case No. RULE-99-0009

)
) FINDINGS OF FACT, CONCLUSIONS OF
) LAW AND ORDER OF THE BOARD

I. INTRODUCTION

1.1 **Hearing.** This appeal came on for hearing before the Personnel Appeals Board, WALTER T. HUBBARD, Chair; GERALD L. MORGEN, Vice Chair; and NATHAN S. FORD Jr., Member. The hearing was held at the office of the Personnel Appeals Board in Olympia, Washington, on July 16, 1999.

1.2 **Appearances.** Appellant SuAnne Pettit was present and was assisted by Dale Pettit. Respondent Bellevue Community College was represented by Lucy Macneil, Vice President of Human Resources.

1.3 **Nature of Appeal.** This is a rule violation appeal in which Appellant contends that the department violated WAC 251-08-090 by failing to properly adjust her salary to receive a two-step salary increase on her periodic increment date.

1.4 **Citations Discussed.** WAC 251-08-090; WAC 251-08-100; WAC 251-08-110; and WAC 251-08-112.

II. FINDINGS OF FACT

2.1 Appellant SuAnne Pettit is an Administrative Assistant A and permanent employee for Respondent Bellevue Community College (BCC). Appellant and Respondent are subject to Chapters 41.06 and 41.64 RCW and the rules promulgated thereunder, Titles 251 and 358 WAC. Appellant filed a timely appeal with the Personnel Appeals Board on April 6, 1999.

2.2 On July 1, 1995, Appellant was hired as an hourly employee in the Communications Technology Center at Bellevue Community College.

2.3 By letter dated August 11, 1998, to the Department of Personnel, Lucy Parke Macneil, Vice President of BCC's Human Resources Department, requested remedial action under WAC 251-12-600 for Appellant, who had worked more than 1050 hours in a 12-month consecutive period from her date of hire on July 1, 1995. Remedial action may be undertaken by the director of the Department of Personnel when an employee has worked an excess of 1050 hours in any 12 consecutive month period since the original date of hire and includes the power to confer permanent status, set salary, establish seniority and determine benefits accrued from the seniority dates. (WAC 251-12-600).

2.4 By letter dated September 3, 1998, Teri Thompson, Manager of the Higher Education Unit at the Department of Personnel, informed Ms. Macneil that the request for remedial action was approved and that Appellant had been placed in classified service. Ms. Thompson further informed Ms. Macneil that Appellant's permanent hire date was established as January 24, 1996, that her Periodic Increment Date was August 1 and that she was being temporarily allocated to the Secretary

1 Lead classification at a pay of Range 36, Step K, pending Appellant's submission of a reallocation
2 request.

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4 2.5 On November 12, 1998, Appellant submitted a request for reallocation to BCC's Human
5 Resources Office.

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7 2.6 By letter dated March 16, 1999, Ms. Macneil informed Appellant that after a formal review
8 of her position, Appellant was being reallocated to the classification of Administrative Assistant A,
9 Range 39, Step H, retroactive to January 24, 1996.

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11 2.7 By letter dated April 1, 1999 Ms. Macneil informed Appellant that after a review of her
12 earlier calculations, she was adjusting Appellant's periodic increment date to February 1 and
13 revising Appellant's salary placement within Range 39 to Step J, effective February 1, 1999.

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15 2.8 By letter dated April 6, 1999, Appellant appealed Ms. Macneil's decision, citing a violation
16 of WAC 251-08-090, alleging that Respondent failed to "properly apply the establishment of the
17 periodic increment date and the annual raises thereafter."

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19 2.9 WAC 251-08-090(1) provides as follows:

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21 Employees whose performance permits them to retain job status in the classified
22 service shall receive periodic increments within the steps of the salary range.
23 The salary of each employee shall be increased two steps on the periodic
24 increment date and annually thereafter on the periodic increment date, not to
25 exceed the maximum step of the range.
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1 2.10 WAC 251-08-100 requires that upon reallocation of an employee who is at the top step of
2 the current salary range, the employee shall be given a new periodic increment date which will be
3 six months following the reallocation action.

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5 2.11 WAC 251-08-112(1) requires that an “employee occupying a position that is reallocated to
6 an existing class with a higher salary range maximum shall receive an increase in the same manner
7 as is provided for promotion in WAC 251-08-110.”

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9 2.12 WAC 251-08-110 requires that an employee who “is promoted shall be paid at the salary
10 step which represents a two-step increase over the salary received immediately prior to the
11 promotion.”

12 13 **III. ARGUMENTS OF THE PARTIES**

14 3.1 Appellant argues that Respondent, by establishing her periodic increment date as February
15 1, should have given her a two-step raise on February 1, 1996. Appellant argues that because she
16 was a classified employee effective January 24, 1996, Respondent violated WAC 251-08-090 when
17 it failed to give her a two-step salary increase on February 1, 1996, her next increment date.

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19 3.2 Respondent argues that the date on which Appellant’s periodic increment date was set is not
20 the issue here, but the issue is whether Appellant was entitled to received her first two-step
21 increment on February 1, 1996. Respondent argues that Appellant was not entitled to her first
22 periodic increment until February 1, 1997. Respondent argues that as a result of Appellant’s
23 reallocation, which was retroactive to the date she became a classified employee, her periodic
24 increment date was correctly established as February 1 and that because Appellant’s salary had
25 been placed above the first step of her salary range, Appellant was not entitled to her next two-step

1 increase for 12 months. Respondent contends that Appellant's argument would have merit only if
2 Appellant had been appointed as a classified staff at the first step of her range.

3 4 **IV. CONCLUSIONS OF LAW**

5 4.1 The Personnel Appeals Board has jurisdiction over the parties hereto and the subject matter
6 herein.

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8 4.2 In an appeal of an alleged rule violation, Appellant has the burden of proof. (WAC 358-30-
9 170).

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11 4.3 The issue before the Board is whether Respondent erred by denying Appellant a periodic
12 increase on February 1, 1996. However, to determine whether Respondent inappropriately denied
13 Appellant her increment raise on February 1, 1996, we must first look at (1) whether Appellant's
14 salary was set at the correct step within Range 39, following effective date of the reallocation action
15 in accordance with WACs 251-08-112 and 251-08- 110 and (2) and whether Respondent properly
16 applied WAC 251-08-100 in establishing Appellant's periodic increment date as February 1.

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18 4.4 The first question is whether Respondent set Appellant's salary at the correct step in Range
19 39. Appellant, by virtue of the remedial action order, was classified as a Secretary Lead, Range 36,
20 Step K, effective January 24, 1996. Appellant was subsequently reallocated to a position in a higher
21 class with an effective date retroactive to January 24, 1996. This reallocation represented a
22 promotion for Appellant. Therefore, in accordance with WAC 251-08-110, Appellant should have
23 received a two step increase over the salary she was receiving immediately prior to her promotion.
24 Because Appellant was at a Range 36, Step K, when she was promoted, she should have been
25 placed at the salary step within Range 39 that represented a two-step increase by utilizing the
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1 compensation plan in effect at that time. Respondent should have placed Appellant at Range 39,
2 Step J, effective January 24, 1996.

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4 4.5 The second question is whether Respondent correctly established Appellant's periodic
5 increment date. When Appellant's position was reallocated, Appellant was a classified employee at
6 the top step of her range (36K). Respondent was required to establish Appellant's periodic
7 increment date in accordance with WAC 251-08-100(3)(c), which states that for employees who are
8 at the top step of their range, the employee's periodic increment date will be established on a date
9 six months following the reallocation action. In this case, six months following Appellant's
10 reallocation action of January 24, 1996, would have been August 1. Therefore, Appellant's correct
11 periodic increment date is August 1.

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13 4.6 Having concluded that Appellant's correct increment date is August 1, Appellant was
14 entitled to receive a periodic increment on August 1, 1996, in accordance with WAC 251-08-
15 090(1). This periodic increment would have moved Appellant's salary to Range 39, Step K.

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17 4.7 Appellant has not proven that she was entitled to receive her periodic increment on February
18 1, 1996, but the facts establish that Appellant's periodic increment date should be adjusted to
19 August 1 in accordance with 251-08-100(3)(c), Appellant should receive her periodic increment for
20 August 1, 1996, and her salary should be adjusted in accordance with WACs 251-08-112(1) and
21 251-08-110.

22 23 **V. ORDER**

24 NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal of SuAnne Pettit is granted in
25 part and Respondent is ordered to adjust her periodic increment date and salary as follows:

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- Place Appellant at Range 39, Step J, effective January 24, 1996, using the Washington State Salary Schedule in effect July 1, 1995 through June 30, 1997;
- Adjust Appellant's Periodic Increment Date to August 1;
- Increase Appellant's salary on her periodic increment date on August 1, 1996 to Range 39, Step K, using the Washington State Salary Schedule in effect July 1, 1995 through June 30, 1997.

DATED this _____ day of _____, 1999.

WASHINGTON STATE PERSONNEL APPEALS BOARD

Walter T. Hubbard, Chair

Gerald L. Morgen, Vice Chair

Nathan S. Ford Jr., Member